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MEMORANDUM

TO: Interested Persons

FROM: Michael J. Sullivan, Director *mjs*

SUBJECT: Reimbursements for goods and services purchased by individuals from third parties.

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Campaign finance reports filed over the past few years have reflected confusion about disclosure of reimbursements to candidates and other individuals. As a result, this memorandum is written to provide guidance for political committees reimbursing individuals for goods or services from third parties obtained by such individuals on behalf of the candidate or committee. The treatment of a reimbursement is important. If a reimbursement is not made promptly, a "contribution" will have been received by the recipient candidate or committee.

**I. Has a contribution been received?**

A "contribution" is defined by the campaign finance law as any "gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or state bank made . . . in the ordinary course of business . . . " given "for the purpose of influencing the nomination or election" of a candidate "or for the purpose of promoting or opposing a [ballot question]." See M.G.L. c. 55, s. 1. Contributions, including loans and in-kind contributions, from individuals to candidate committees and political action committees are limited to \$500 per calendar year. See M.G.L. c. 55, s. 7A.

Whether a payment made by an individual for goods and services purchased on behalf of a candidate or committee is a "reimbursement" or a "contribution" depends on how quickly reimbursement is made. If a committee promptly, i.e., within thirty days after the purchase of a good or service by an individual, pays an individual's out-of-pocket expenses, such a payment would be a "reimbursement." If a committee does not pay the individual within 30 days, however, the individual's out-of-pocket expense is a contribution, i.e. either an in-kind contribution or a loan, subject to the \$500 contribution limitation.

**II. Reporting the transaction**

(a) Reimbursements: A committee which, within 30 days of purchase, reimburses an individual who has obtained goods or services on behalf of the committee should report the reimbursement on Schedule B (Expenditures) of its campaign finance report. If the reimbursement is for more than \$50, the committee must also file Form CPF R-1 (Itemization of Reimbursements) to ensure full disclosure of the original purchase. See 970 CMR 2.10(6) (reimbursements to non-depository candidates and committees) and 970 CMR 2.10(7) (reimbursements to depository candidates and committees). Any reimbursement which remains unpaid when a report is due is a debt of the committee which must be reported as a liability on Schedule D (Liabilities).

If a committee does not reimburse an individual for goods or services within 30 days of purchase, however, the committee must consider the individual's out-of-pocket expense as an in-kind contribution or a loan.

(b) In-kind Contribution: If the individual does not intend to be repaid, the individual has made an in-kind contribution which must be reported on Schedule C (In-kind Contributions).

(c) Loans: If the individual intends to be repaid (but this does not happen within 30 days of purchase) the individual has made a contribution in the form of a loan. If the loan is outstanding when the next report is filed, the amount of the outstanding loan to the individual must be reported as a liability on Schedule D. In addition to the name of the individual making the loan, the information reported should disclose the date the liability was incurred, the name and address of the vendor(s) providing the goods or services, a description of the goods or services and the amount of the liability. Expenditures made by the committee to repay the loan should be reported on Schedule B with corresponding reductions reflected on Schedule D.

### **III. Depository Candidates and Committees**

By statute, depository candidates and committees must pay for goods and services costing \$50 or more by check drawn on the candidate or committee's depository account. Nonetheless, if a payment is made by an individual to a third party for goods and services and not reimbursed within 30 days, the committee must consider such payment as a loan or in-kind contribution. In the depository system, loans which remain outstanding at the end of the year and in-kind contributions received during the year must be reported on a depository candidate or committee's year end report, Form CPF D102.

### **IV. Recordkeeping**

Regardless of the nature of a particular transaction or the manner in which it is reported, candidates and committees must keep complete and accurate records, including receipts obtained from any person being reimbursed for out-of-pocket expenditures. The records must identify the source of the goods and services as well as the amount and date of purchase. See M.G.L. c. 55, ss. 2 and 5.

For further information and guidance with respect to this memorandum, please contact OCPF.